

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

JOSEPH ALLDREDGE,
Plaintiff,
v.
NATIONAL SECURITY AGENCY,
Defendant.

Case No. [15-cv-3638-TEH](#)

ORDER OF DISMISSAL

Plaintiff, an inmate at Kern Valley State Prison, filed this pro se civil rights action under 42 U.S.C. § 1983. Plaintiff is granted leave to proceed in forma pauperis in a separate order. His complaint is now before the Court for initial screening pursuant to 28 U.S.C. § 1915A.

I

Federal courts must engage in a preliminary screening of cases in which prisoners seek redress from a governmental entity or officer or employee of a governmental entity. 28 U.S.C. § 1915A(a). The court must identify cognizable claims or dismiss the complaint, or any portion of the complaint, if the complaint "is frivolous, malicious, or fails to state a claim upon which relief may be granted," or "seeks monetary relief from a defendant who is immune from such relief." Id. § 1915A(b). Pleadings filed by pro se litigants, however, must be liberally construed. Hebbe v. Pliler, 627 F.3d 338, 342 (9th Cir. 2010);

1 Balistreri v. Pacifica Police Dep't., 901 F.2d 696, 699 (9th Cir.
2 1990).

3 To state a claim under 42 U.S.C. § 1983, a plaintiff must
4 allege two essential elements: (1) that a right secured by the
5 Constitution or laws of the United States was violated, and (2)
6 that the alleged violation was committed by a person acting under
7 the color of state law. West v. Atkins, 487 U.S. 42, 48 (1988).

8 II

9 A

10 Plaintiff has filed a petition for writ of mandamus and
11 several amendments. He seeks this Court to compel the National
12 Security Agency to provide Plaintiff with certain documents and
13 Brady information. While it is not entirely clear what Plaintiff
14 seeks he discusses the September 11 terrorist attacks, the Gulf
15 War and Saddam Hussein, World War II, a cure for cancer, HIV, and
16 obesity, Ayatollah Khomeini, George Bush, Hillary Clinton,
17 Vladimir Putin, Donald Trump, and many other individuals and
18 subjects.

19 B

20 A claim is frivolous if it is premised on an indisputably
21 meritless legal theory or is clearly lacking any factual basis.
22 See Neitzke v. Williams, 490 U.S. 319, 327 (1989). Sections
23 1915A and 1915(e)(2) accord judges the unusual power to pierce
24 the veil of the complaint's factual allegations and dismiss as
25 frivolous those claims whose factual contentions are clearly
26 baseless. See Denton v. Hernandez, 504 U.S. 25, 32 (1992).
27 Examples are claims describing fantastic or delusional scenarios
28 with which federal district judges are all too familiar. See

1 Neitzke v. Williams, 490 U.S. 319, 328 (1989). To pierce the
2 veil of the complaint's factual allegations means that a court is
3 not bound, as it usually is when making a determination based
4 solely on the pleadings, to accept without question the truth of
5 the plaintiff's allegations. See Denton, 504 U.S. at 32. A
6 finding of factual frivolousness is appropriate when the facts
7 alleged rise to the level of the irrational or the wholly
8 incredible, whether or not there are judicially noticeable facts
9 available to contradict them. See id. at 32-33.

10 Plaintiff's allegations and claims are meritless and
11 frivolous, and fail to state a claim. To the extent Plaintiff
12 seeks to file a case concerning a Freedom of Information Act
13 request, an agency may be sued in Plaintiff's home district, or
14 in the district where the records are located, or in the District
15 of Columbia. 5 U.S.C. § 552(a)(4)(B). Plaintiff is incarcerated
16 in the Eastern District of California and there is no indication
17 that the records are located in this district. Plaintiff must
18 therefore file the case in the correct district. Because no
19 amount of amendment could cure the deficiencies in this
20 complaint, the action is dismissed with prejudice.

21 III

22 For the foregoing reasons, the Court hereby orders as
23 follows:

24 1. Plaintiff's complaint is DISMISSED with prejudice as
25 frivolous and for failure to state a claim.

1 2. The Clerk shall close this case.

2 IT IS SO ORDERED.

3 Dated: 11/02/2015



THELTON E. HENDERSON
United States District Judge

6 G:\PRO-SE\TEH\CR.15\Alldredge3638.dis.docx